

## **RESPONSE TO RESTRICTION REQUIREMENT**

The Office Action mailed on 16 November 2005 required election by Applicants amongst two sets of claims:

**Group I:** Claims 1-15, drawn to a Shuffling Device, classified in Class 273, subclass 149R; and

**Group II:** Claims 16-24, drawn to a Method of Shuffling Cards, classified in Class 273, subclass 149.

Applicants provisionally elect, with traverse, the claims of Group I, claims 1-15, for examination on the merits.

The restriction requirement asserts that the process can be practiced by another materially different apparatus or by hand or the apparatus can perform another and materially different process. Applicants traverse that analysis.

No materially different apparatus than that described in the claims is believed to be able to perform the method. Applicant requests that the Examiner identify such an apparatus to substantiate that assertion.

The assertion that the process can be performed by hand is a traditional, but legally absurd basis of attempting to sustain restriction requirements. It can be argued that every process in the world can be manually performed, which would automatically prevent method and apparatus claims from appearing in a single patent. There is no basis for that in the regulations and the fact that numerous patents issue each year with both process and apparatus claims negates any legal presumption as inherently asserted in the manual performance basis of restricting the claims.

Additionally, there is no materially different process that can be performed by the recited apparatus, unless it is asserted that another use might be driving nails into a board with the apparatus. This would be a spurious process and not amenable to the intent of the regulations.

All claims should be examined in a single application.



CONCLUSION

Applicants have complied with the requirements for a response to the existing Office Action, even if traversing those requirements. All claims should be examined and all claims allowed.

Respectfully submitted

On Behalf of Applicants

Peter Krenn et al.

By Their Representative

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A handwritten signature in black ink, appearing to read "Mark A. Litman".

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